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Attorneys for Plaintiffs
JESSE W. WOLFE & DAWN WOLFE

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JESSE W. WOLFE & DAWN WOLFE,) Case No.
husband and wife,)
) VERIFIED COMPLAINT FOR DAMAGES
Plaintiffs,)
) JURY TRIAL DEMANDED
v.)
)
WELLS FARGO HOME MORTGAGE and)
DOES 1 through 20, inclusive,)
)
Defendants.)
)
)
)

INTRODUCTION

1. The California legislature has determined that the banking and credit system and grantors of credit to consumers are dependent upon the collection of just and owing debts and that unfair or deceptive collection practices undermine the public confidence that is essential to the continued functioning of the banking and credit system and sound extensions of credit

1 to consumers. The Legislature has further determined that there
2 is a need to ensure that debt collectors exercise this
3 responsibility with fairness, honesty and due regard for the
4 debtor's rights and that debt collectors must be prohibited from
5 engaging in unfair or deceptive acts or practices.¹

6 2. JESSE W. WOLFE AND DAWN WOLFE (hereinafter
7 "Plaintiffs"), by Plaintiffs' attorneys, brings this action to
8 challenge the actions of WELLS FARGO HOME MORTGAGE (hereinafter
9 "Defendant WFHM"), with regard to attempts by Defendants, debt
10 collectors, to unlawfully and abusively collect a debt allegedly
11 owed by Plaintiffs, and this conduct caused Plaintiffs' damages.
12

13 3. For the purposes of this Complaint for Damages, unless
14 otherwise indicated, "Defendant" includes all agents, employees,
15 officers, members, directors, heirs, successors, assigns,
16 principals, trustees, sureties, subrogees, representatives and
17 insurers of Defendant(s) named in this caption.

18 JURISDICTION AND VENUE

19 4. This action arises out of Defendants' violations of
20 the following: the Rosenthal Fair Debt Collection Practices Act
21 and California Civil Code §§ 1788-1788.32 (RFDCPA).
22

23 5. Because Defendants do business within the State of
24 California, personal jurisdiction is established.

25 ¹ Cal. Civ. Code 1788.1(a)-(b)

1 credit" as those terms are defined by Cal. Civ. Code §
2 1788.2(f).

3 **FACTUAL ALLEGATIONS**

4 11. At all times relevant, Plaintiffs were individuals
5 residing within the State of California.

6 12. Plaintiffs are informed and believe, and thereon
7 allege, that at all times relevant Defendants conducted business
8 in the State of California.

9 13. At all times relevant herein Plaintiff JESSE W. WOLFE
10 has had a home mortgage with Defendant WFHM. The promissory
11 note provides that Plaintiff's monthly payment to WFHM is due on
12 the first of each month but not delinquent until the 16th of each
13 month, thereby giving Plaintiff a grace period through the 15th
14 of each month to pay the mortgage payment.

15 14. Beginning as early as the 10th of the month, Defendant
16 WFHM and/or its agents began calling Plaintiffs to make the
17 mortgage payment. Plaintiffs have a baby and sometimes are up
18 all night with the baby. Defendants will call repeatedly to
19 make the monthly payment. In November 2012, Plaintiffs had
20 advised Defendants not to call. In May 2013, Defendants began
21 calling again. Defendants called Plaintiffs on May 10, 2013.
22 Defendants called on May 14, 2013 at 1:22 p.m. Plaintiffs then
23 called Defendants back that same day and left a message for a
24 supervisor to have Defendant stop calling. Plaintiffs, that same
25 day, followed up with a letter to Defendants telling them to

1 stop calling. By letter dated May 15, 2013, Defendants
2 acknowledged Plaintiffs' phone calls asking that all calls stop,
3 but Defendants refused to honor Plaintiffs' request until
4 Plaintiffs signed a statement provided by Defendants.
5 Defendants called again on May 14, 2013 at 5:39 p.m.; then on
6 May 15, 2013 at 8:05 a.m.; then on May 15, 2013 at 2:52 p.m.
7 During these phone calls Defendant's employees were
8 condescending to Plaintiffs telling them to pay their bills on
9 time, asking rhetorical questions whether Plaintiffs signed
10 contract which provides for payment on the 1st and asking
11 Plaintiffs if they knew what the first of the month means.
12 After May 2013, Defendant continued to call repeatedly despite
13 being told in writing to cease.

14
15 **COUNT I**

16 **VIOLATION OF THE ROSENTHAL FAIR DEBT COLLECTION PRACTICES ACT**

17 **§§ 1788-1788.32 (RFDCPA)**

18 15. Plaintiffs incorporate by reference all of the above
19 paragraphs of this Complaint as though fully stated herein.

20 16. The foregoing acts and omissions of Defendants
21 constitute violations of the RFDCPA, including but not limited
22 to, 1788.11(d)(e) & 1788.17 by violating 15 U.S.C. 1692d, d(5),
23 1692c(C), and 1692f.

24 17. As a result of Defendants' violations of the RFDCPA,
25 Plaintiffs are entitled to any actual damages pursuant to

1 California Civil Code § 1788.30(a); statutory damages for a
2 knowing or willful violation in the amount up to \$1,000.00
3 pursuant to California Civil Code § 1788.30(b); and reasonable
4 attorney's fees and costs pursuant to California Civil Code §
5 1788.30(c) from Defendants.

6
7 **COUNT II**

8 **INVASION OF PRIVACY BY INTRUSION UPON SECLUSION**

9 18. Plaintiffs incorporate by reference all of the
10 paragraphs of this Complaint as though fully stated herein.

11 19. Congress explicitly recognized a consumer's inherent
12 right to privacy in collection matters in passing the Fair Debt
13 Collection Practices Act, when it stated as part of its
14 findings:

15 **Abusive debt collection practices contribute to the**
16 **number of personal bankruptcies, to marital**
17 **instability, to the loss of jobs, and to invasions of**
18 **individual privacy.**

19 15 U.S.C. § 1692(a) (emphasis added).

20 20. Defendant WFHM and/or their agents intentionally
21 and/or negligently interfered, physically or otherwise, with the
22 solitude, seclusion and or private concerns or affairs of
23 Plaintiffs, namely, by unlawfully attempting to collect a debt
24 and thereby invaded Plaintiffs' privacy.
25

1 21. Defendant and its agents intentionally and/or
2 negligently caused emotional harm to Plaintiffs by engaging in
3 highly offensive conduct in the course of collecting this debt,
4 thereby invading and intruding upon Plaintiffs' right to
5 privacy.

6 22. Plaintiffs had a reasonable expectation of privacy in
7 Plaintiffs' solitude, seclusion, and private concerns or
8 affairs.

9 23. The conduct of these Defendants and their agents, in
10 engaging in the above-described illegal collection conduct
11 against Plaintiffs, resulted in this intrusion and invasion of
12 privacy against Plaintiffs by this Defendant which occurred in a
13 way that would be highly offensive to a reasonable person in
14 Plaintiffs' position.

15 24. As a result of such intrusions and invasions of
16 privacy, Plaintiffs are entitled to actual damages in an amount
17 to be determined at trial from each and every Defendant.
18

19 **PRAYER FOR RELIEF**

20 WHEREFORE, Plaintiffs pray that judgment be entered against
21 Defendants for:

22 **ROSENTHAL FAIR DEBT COLLECTION PRACTICES ACT**

- 23 • an award of actual damages pursuant to California
24 Civil Code § 1788.30(a) in an amount to be adduced at
25 trial, from Defendants;

- an award of statutory damages of \$1,000.00, pursuant to California Civil Code § 1788.30(b), from Defendants;
- an award of costs of litigation and reasonable attorney's fees, pursuant to California Civil Code § 1788.30(c), from Defendants.

DATED: September 30, 2013 DELTA LAW GROUP

BY: 

JIM G. PRICE

Attorneys for Plaintiffs

JESSE W. WOLFE & DAWN WOLFE

VERIFICATION

I, DAWN WOLFE, declare:

I am the Plaintiff in this action. I have read the foregoing document entitled: **COMPLAINT FOR DAMAGES** and know the contents thereof. The same is true of my own knowledge, except as to those matters stated therein on information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on this 30 day of September, 2013, at Brentwood, California.


DAWN WOLFE